

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Tr.P(C).No. 153 of 2006()

OP.467/2004 of FAMILY COURT, THIRUVALLA
.....

PETITIONER

SREEJA KUMARI, AGED 24 YEARS,
D/O.UJALA, ULLAS BHAVAN, AYLARA,
YEROOR, PATHANAPURAM TALUK.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT:

VINOD, S/O.RAGHUNATHAN,
RAJANI BHAVAN, NEAR POST OFFICE,
NEDUMONKAVU, KODAL VILLAGE, ADOOR TALUK.

BY ADV. SRI.SEBASTIAN DAVIS

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

HARUN-UL-RASHID, J.

Tr.P.(C) No.153 of 2006

Dated: September 10, 2007

ORDER

The petitioner before this court is the petitioner in O.P.(HMA) No.436/2005 on the file of the Family Court, Kottarakkara. The said O.P. was filed for the relief of a decree of divorce. The respondent/husband is the petitioner in O.P.No.467/2004 on the file of the Family Court, Thiruvalla. The case was filed by him for restitution of conjugal rights.

2. The petitioner/wife also filed a criminal complaint under section 498A against her husband/respondent and his mother which is pending before the JFCM Court-I, Punalur, as C.C.936/2005.

3. O.P.467/2004 filed by the respondent for restitution of conjugal rights was decreed ex parte. The petition by the wife for setting aside the ex parte decree was also dismissed for default. Now it is submitted by the learned counsel for the petitioner that the petition for restoration of the main petition for setting aside the ex parte decree dismissed for default is pending consideration before the Family Court, Thiruvalla.

4. It is submitted by the learned counsel for the petitioner that since the petition for restitution of conjugal rights and the petition seeking a decree of divorce are pending before two different courts, they may lead to conflicting decisions and in that event interests of justice may suffer. The matter was put to the learned counsel for the respondent/husband. The respondent/husband is

now working in the Army in Jammu and Kashmir. The petitioner/wife was continuously filing restoration applications; one was dismissed, subsequently another application was filed and, according to him, this is a continuous harassment for the respondent/husband. The learned counsel submits in fairness that he is not opposing the prayer for transfer so that both the cases can be jointly tried and disposed of. His only request is that since he is now permanently working in the State of Jamu and Kashmir, the long pendency of these matters is causing severe hardship to him.

In the facts and circumstances of the case, the prayer for transfer is allowed. This court order transfer of O.P.No.467/2004 pending before the Family Court, Thiruvalla to the Family Court, Kottarakkara. There will be a further direction to the Family Court, Kottarakkara to try and dispose of O.P. (HMA)436/2005 along with O.P.467/2004 as expeditiously as possible for the reasons stated in the preceding paragraphs. The Family Court, Thiruvalla shall transfer the file to the Family Court, Kottarakkara within two weeks from today. On receipt of the file, the Family Court, Kottarakkara shall post both the cases in the first week of October 2007 and shall dispose of the matter finally on or before 31st of December, 2007.

**HARUN-UL-RASHID
JUDGE**

mt/-